IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1150 of 2005

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SPECIAL LAQ OFFICER

Versus

PATEL GANDABHAI @ BHIKHABHAI BHULABHAI

Appearance:

1. First Appeal No. 1150 of 2005
MR AD OZA, GOVERNMENT PLEADER for Appellant No.
..... for Respondent No. 1-4

CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE M.C.PATEL

Date of decision: 10/05/2005

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE B.J.SHETHNA)

Admit. Shri A.J.Patel, learned Counsel, who earlier appeared in Civil Application No.9375 of 2004 for condonation of delay for the respondents - claimants

appears in this Appeal as well for the respondents and waived Notice. On the joint request of learned Counsel for the parties, this Appeal is taken up today for final disposal and disposed of by this order.

2. Two LA Case Nos.1360 and 1361 of 1996 were disposed of by the impugned common judgment and Award dated 11.12.2003 passed by the 2nd Jt. Assistant Judge and Special Judge (L.A.Q.) Ahmedabad (R) District Court, Navrangpura, the present Appeal is filed by the Special LAO in LA Case No.1360 of 1996.

3. Learned GP Shri Oza for the appellant submitted that the appellant had also filed First Appeal in LA Case No.1361/96, but the same could not be placed along with this Appeal today because there was a delay in filing the First Appeal, wherein they have filed an Application for condonation of delay, but Notice issued to the respondents - claimants returned unserved with an endorsement that the respondent had died. Therefore, he was required to file proper Application in that Civil Application as well as in the main First Appeal for bringing LRs of the deceased claimant on record. Be that as it may. As and when such Application is moved for bringing LRs on record in that Civil Application and First Appeal then appropriate orders be passed on that Civil Application as well as First Appeal. However, this should not preclude us from disposing of this Appeal as, in this case, the respondents are already appearing through learned Counsel Shri A.J.Patel.

4. In the instant case Section 4 Notification was issued on 16.5.1989 under the Land Acquisition Act. It is in Valad Village. The land of the respondents claimants was acquired for the purpose of Narmada Main Canal. The LAO passed his Award dated 2.3.1991 u/s.11 of the Act whereby he awarded Rs.5.40 ps. for irrigated land and Rs.3.60 ps. for non-irrigated land, against the claim of Rs.200/- per sq.mtr. For the remaining claim they have approached the Reference Court by way of LA Case No.1360/96. However, the Reference Court awarded additional sum of Rs.54.90 ps. per sq.mtr. which is challenged in this Appeal by the appellant - Special Land Acquisition Officer.

5. The Reference Court awarded additional sum of Rs.54.90 ps. per sq.mtr. to the respondents - claimants in view of the Judgment of the Division Bench of this Court, delivered on 3.4.1998, wherein the Reference Court had initially awarded Rs.70/- per sq.mtr. but in Appeal, filed by the Special Land Acquisition Officer, this Court

reduced it to Rs.54/- per sq.mtr. Whereas in the instant case Section 4 Notification was issued on 16.5.1989 i.e. after a period of 2 years. In that view of the matter, applying the multiplier of 10 if the Reference Court has awarded additional sum of Rs.54.90 per sq.mtr. to the respondents - claimants then it cannot be said that the Reference Court has committed any error in awarding the said additional amount. In fact Shri Oza conceded that once they have accepted the Judgment of the Division Bench of this Court in First Appeal No.2481 to 2507 of 1987 whereby the High Court has awarded Rs.53/- per sq.mtr. for the notification issued in 1987 then they were not in a position to challenge the impugned Judgment and Award passed by the Reference Court in this Appeal.

6. In view of the above discussion, no interference is called for in this Appeal. Accordingly, this Appeal is hereby dismissed. However, there shall be no order as to costs.

(B.J.Shethna, J.)

Date : May 10, 2005

(M. C. Patel, J.)

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